

**FREEDOM COURT REPORTING**

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS, ) 6 Plaintiff, ) 7 vs. ) CASE NUMBER: 8 FLORIDA TRANSFORMER, ) 3:05-CV-962-T 9 EDWARD NEAL THOMPSON, ) 10 et al., ) 11 Defendants. ) 12 13 DEPOSITION OF WILLIAM EARL TIDWELL 14 In accordance with Rule 5(d) of 15 The Alabama Rules of Civil Procedure, as 16 Amended, effective May 15, 1988, I, Cindy 17 Weldon, am hereby delivering to Henry L. 18 Penick, the original transcript of the oral 19 testimony taken on the 14th day of July, 20 2006, along with exhibits. 21 Please be advised that this is the 22 same and not retained by the Court Reporter, 23 nor filed with the Court.</p>	<p style="text-align: right;">Page 3</p> <p>1 AGREED that the signature to and the reading 2 of the deposition by the witness is waived, 3 the deposition to have the same force and 4 effect as if full compliance had been had 5 with all laws and rules of Court relating to 6 the taking of depositions. 7 IT IS FURTHER STIPULATED AND 8 AGREED that it shall not be necessary for 9 any objections to be made by counsel to any 10 questions, except as to form or leading 11 questions, and that counsel for the parties 12 may make objections and assign grounds at 13 the time of trial, or at the time said 14 deposition is offered in evidence, or prior 15 thereto. 16 IT IS FURTHER STIPULATED AND 17 AGREED that notice of filing of the 18 deposition by the Commissioner is waived. 19 20 21 22 23</p>
<p style="text-align: right;">Page 2</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS, ) 6 Plaintiff, ) 7 vs. ) CASE NUMBER: 8 ) 3:05-CV-962-T 9 FLORIDA TRANSFORMER, ) 10 EDWARD NEAL THOMPSON, ) 11 et al., ) 12 Defendants. ) 13 14 STIPULATION 15 IT IS STIPULATED AND AGREED, by 16 and between the parties through their 17 respective counsel, that the deposition of 18 WILLIAM E. TIDWELL, may be taken before 19 Cindy Weldon, Certified Shorthand Reporter, 20 Commissioner and Notary Public, at 732 North 21 9th Street, DeFuniak Springs, Florida, on 22 July the 14th, 2006 at 10:20 a.m. 23 IT IS FURTHER STIPULATED AND</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES 2 3 FOR THE PLAINTIFF: 4 MR. HENRY L. PENICK 5 THE PENICK BUILDING 6 319 - 17TH STREET NORTH, SUITE 200 7 BIRMINGHAM, ALABAMA 35203 8 9 FOR THE DEFENDANT: 10 MR. RICHARD BROUGHTON 11 2000 INTERSTATE PARK DRIVE 12 SUITE 204 13 MONTGOMERY, ALABAMA 36109 14 15 ALSO PRESENT: 16 MR. EDWARD NEAL THOMPSON 17 MR. FRANKLIN SCOTT SEAY 18 19 20 21 22 23</p>

1 (Pages 1 to 4)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

**EXHIBIT G**

**FREEDOM COURT REPORTING**

Page 21	Page 23
<p>1 yourself.</p> <p>2 Q. But you would write that on your</p> <p>3 logbook before you take off?</p> <p>4 A. You didn't have to -- It's not</p> <p>5 required to be written on your logbook.</p> <p>6 Q. Well, you said -- You would write</p> <p>7 it on something, though, wouldn't you?</p> <p>8 A. I'd just -- I went back in my log</p> <p>9 sheet. You would either check -- If there</p> <p>10 was something wrong with it, you'd check</p> <p>11 it. If there wasn't, you wouldn't check it.</p> <p>12 Q. Okay. Did you ever have any</p> <p>13 mechanical problems with any of your trucks</p> <p>14 while you were driving?</p> <p>15 A. No, sir.</p> <p>16 Q. Do you recall ever checking a</p> <p>17 problem that you had to check on either a</p> <p>18 pre-trip or a post-trip inspection sheet?</p> <p>19 A. No, sir.</p> <p>20 Q. Who handles the maintenance out</p> <p>21 there?</p> <p>22 A. Chad Locke.</p> <p>23 Q. How long has Chad been handling</p>	<p>1 Q. Do you know how long Chad has been</p> <p>2 doing maintenance on trucks altogether?</p> <p>3 A. No, sir. I have no idea.</p> <p>4 Q. How old is he?</p> <p>5 A. I have no idea how old Chad is.</p> <p>6 Q. Have you ever seen him?</p> <p>7 A. Yes, I've seen him.</p> <p>8 Q. What does he look like?</p> <p>9 A. Probably in his forties.</p> <p>10 Q. Anybody there would ever come to</p> <p>11 you and try to explain to you DOT</p> <p>12 regulations, anybody at Florida</p> <p>13 Transformer? Would anybody come and just</p> <p>14 try to explain the regulations regarding the</p> <p>15 truck?</p> <p>16 A. Not that I can remember.</p> <p>17 Q. Did you ever have any -- I think</p> <p>18 you said you only had one speeding ticket,</p> <p>19 but no accidents; right?</p> <p>20 A. Right.</p> <p>21 Q. But you were involved in the</p> <p>22 accident that we're here about on September</p> <p>23 the 2nd, 2004, weren't you?</p>
Page 22	Page 24
<p>1 maintenance as far as you know?</p> <p>2 A. Ever since I've been there. He</p> <p>3 don't work for Florida Transformer.</p> <p>4 Q. Who does he work for him?</p> <p>5 A. Himself.</p> <p>6 Q. But is he physically located right</p> <p>7 there at the Florida Transformer location or</p> <p>8 do you know if he's located a little</p> <p>9 distance away?</p> <p>10 A. He's located a little distance</p> <p>11 away.</p> <p>12 Q. So y'all would just drive your</p> <p>13 trucks over there and let him work on them?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Have you ever talked to Chad about</p> <p>16 a problem you had with a truck and then you</p> <p>17 drove the truck and you had to go back and</p> <p>18 see him again and say, well, Chad that just</p> <p>19 wasn't right?</p> <p>20 A. No, sir.</p> <p>21 Q. Or it wasn't adjusted properly or</p> <p>22 something like that?</p> <p>23 A. No, sir.</p>	<p>1 A. Yes, sir.</p> <p>2 Q. And Neal was driving, Neal</p> <p>3 Thompson; right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. I think you called him Neal?</p> <p>6 A. Yes, sir.</p> <p>7 Q. So during your deposition, we'll</p> <p>8 call him Neal. Is that okay?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you recall when you first met</p> <p>11 Neal?</p> <p>12 A. Was right in August when he just</p> <p>13 got hired on.</p> <p>14 Q. Who introduced you?</p> <p>15 A. Don Carol.</p> <p>16 Q. And what did he tell you?</p> <p>17 A. That Neal was going to be a new</p> <p>18 driver.</p> <p>19 Q. Did he tell you anything about</p> <p>20 him?</p> <p>21 A. No, sir.</p> <p>22 Q. Did he tell you anything about</p> <p>23 what his experience was for driving?</p>

6 (Pages 21 to 24)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

**FREEDOM COURT REPORTING**

Page 25	Page 27
<p>1 A. He said he had about seventeen 2 years of experience. 3 Q. At the time, that means -- he 4 meant that he had more driving experience 5 than you? 6 A. Yes, sir. 7 Q. Did you feel there was anything 8 that you could show him? 9 A. No, sir. 10 Q. Okay. So when did he first ride 11 with you? 12 A. On September the 2nd. 13 Q. Okay. Before that time, do you 14 know whether or not he rode with someone 15 else? 16 A. Yes, sir, he did. 17 Q. Who did he ride with? 18 A. James Cook. 19 Q. Do you know where they made a run 20 to? 21 A. Wauchula, Florida. 22 Q. And what did they take down to 23 Wauchula?</p>	<p>1 August? 2 A. Yes, sir. 3 Q. Do you know when he got back off 4 of that first Florida run, the first trip? 5 A. No, sir. 6 Q. How were you informed that you 7 were going to go out with him on either the 8 night of September the 1st or the morning of 9 September the 2nd? 10 A. Don would tell us on the day 11 before. 12 Q. So Don told you something on 13 September the 1st? 14 A. September the 1st. 15 Q. And what did he tell you? 16 A. That I was going out with Neal. 17 Q. And? 18 A. To just observe and teach him how 19 to do the paperwork. 20 Q. Go on. I'm sorry. 21 A. Teach him how to do the paperwork 22 and show him how to react to customers and 23 stuff like that.</p>
Page 26	Page 28
<p>1 A. That was -- They went to pick up 2 old transformers. 3 Q. So at Florida Transformer, do you 4 refurbish transformers as well? 5 A. Yes, sir. 6 Q. And do you build new ones as well? 7 A. They refurbish the old ones into 8 new ones. 9 Q. You don't know much about that 10 trip down to Florida as far as who drove and 11 how much each one of them drove? 12 A. No, sir. 13 Q. But as far as you know, that was 14 his first trip? 15 A. Yes, sir. 16 Q. Okay. Did he ever discuss with 17 you or say anything to you about the first 18 trip? 19 A. Not that I can remember. 20 Q. Do you know what date he ran the 21 first trip? 22 A. It was right in August there. 23 Q. About August 31st, the very end of</p>	<p>1 Q. When you -- Do you know what time 2 you all was supposed to -- or was scheduled 3 to leave out? 4 A. Around one o'clock September the 5 2nd. 6 Q. Did you meet with him about that 7 time? 8 A. We met before then. 9 Q. What time did you meet? 10 A. About 12:45. 11 Q. All right. And then what did 12 y'all do? 13 A. Walked around and inspected the 14 truck. 15 Q. Did you have any conversation with 16 him about the truck? 17 A. No, sir. 18 Q. Had he ever driven this truck 19 before? 20 A. If I remember correct, I think 21 they drove it to Florida. 22 Q. Wauchula? 23 A. Yes, sir. To Wauchula.</p>

7 (Pages 25 to 28)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

**FREEDOM COURT REPORTING**

<p style="text-align: right;">Page 29</p> <p>1 Q. And so you met with him about 2 12:45 and you looked around the truck. Did 3 y'all have any conversation about any defect 4 in the truck? 5 A. No, sir. 6 Q. Did you find anything that wasn't 7 exactly right in the truck? 8 A. No, sir. 9 Q. You know, every truck has its own 10 little things about it. Was there anything 11 about it that was special about this truck 12 that you had to tell him like, okay, when 13 you pull the brakes up, you have to kind of 14 pull it twice to make sure it's off or 15 something like that? Anything like that? 16 A. No, sir. 17 Q. Had you ever ridden in this truck 18 before? 19 A. I had driven the truck. 20 Q. And this was truck 11? 21 A. Yes, sir. 22 Q. After you did the inspection, what 23 kind of conversation did you and Neal have</p>	<p style="text-align: right;">Page 31</p> <p>1 A. The 1st. 2 Q. You did a run on the 1st? 3 A. Yes, sir. 4 Q. All right. What time did you get 5 back in on the 1st? 6 A. I can't remember, sir. 7 Q. Was it morning or afternoon? 8 A. It was in the afternoon. 9 Q. Okay. Do you know what time in 10 the afternoon? 11 A. I'm -- We had no idea what time. 12 I've have to look back on the logbook or 13 something. 14 Q. Do you know how many hours you had 15 been off work before you got in the truck to 16 go with Neal? Well, let me take that back. 17 Do you know how long you had been 18 off work before you reported back to work 19 and had this conversation with Neal and was 20 walking around the lot? 21 A. Somewhere around ten hours I'm 22 thinking. 23 Q. What did you do for that ten</p>
<p style="text-align: right;">Page 30</p> <p>1 after that? 2 A. Just normal talking about where we 3 was going up towards Atlanta. 4 Q. Had you been there before? 5 A. I've been through there several 6 times. But not this customer. 7 Q. Had Neal been there before? 8 A. Not to the customers. But he -- I 9 guess he's been through Atlanta. 10 Q. Were you given any instructions 11 about grading him? 12 A. No, sir. 13 Q. What did you observe -- Well, 14 first of all, after you had this 15 conversation, the general talking about 16 where you were headed, what did you all do 17 next? 18 A. We were headed up the highway 19 going toward Montgomery. 20 Q. Well, let me ask you this. Before 21 you took off, had you -- when was the last 22 trip you had done prior to taking off on 23 this trip?</p>	<p style="text-align: right;">Page 32</p> <p>1 hours? 2 A. Went to my house. 3 Q. What did you do? 4 A. My normal routine is go to the 5 house and sit around a few minutes and get a 6 bath and go to bed. 7 Q. Was there anything about the sleep 8 that you got that day? Was it interrupted 9 by anything? 10 A. No, sir. 11 Q. No family emergency or anything; 12 right? 13 A. No, sir. 14 Q. When you all had headed out to 15 Montgomery, towards Montgomery, did anything 16 happen along the way? 17 A. Like what? 18 Q. Just fairly uneventful? 19 A. Like we run through a little bit 20 of a shower of rain. 21 Q. Where were you when you ran 22 through the shower of rain? 23 A. On 231, between Troy and</p>

8 (Pages 29 to 32)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**



## FREEDOM COURT REPORTING

Page 37	Page 39
<p>1 the highway?</p> <p>2 A. No, sir. Not that I remember.</p> <p>3 There wasn't nothing unusual about it.</p> <p>4 Q. Well, tell me what happened as you</p> <p>5 got in the area of this accident.</p> <p>6 A. Like we was meeting cars coming</p> <p>7 south and we were going north. And all of a</p> <p>8 sudden, there was this truck laying across</p> <p>9 the whole interstate.</p> <p>10 Q. Let me ask you about the cars or</p> <p>11 trucks going south. They were over on the</p> <p>12 other side of the highway separated by a</p> <p>13 median; right?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And you had two lanes going north?</p> <p>16 A. Yes, sir.</p> <p>17 Q. All right. So tell me what</p> <p>18 happened as you all got close to this</p> <p>19 location where the accident occurred.</p> <p>20 A. We were just going north on 85.</p> <p>21 And all of a sudden, there -- like I said,</p> <p>22 there was a semi across the road.</p> <p>23 Q. What did you notice about the</p>	<p>1 A. Not that I can recall.</p> <p>2 Q. So were you having any</p> <p>3 conversation with Neal as you all approached</p> <p>4 this location where the accident occurred?</p> <p>5 A. Not that I can remember. We were</p> <p>6 not having a conversation.</p> <p>7 Q. Do you remember anything that was</p> <p>8 going on at all?</p> <p>9 A. He was just driving up the road</p> <p>10 and I was sitting over there watching him.</p> <p>11 Q. So what happened once you</p> <p>12 recognized this overturned trailer in the</p> <p>13 freeway?</p> <p>14 A. Neal hit the brakes as quick as he</p> <p>15 and I both recognized it. There was nowhere</p> <p>16 to go to get away from it.</p> <p>17 Q. Okay. How many lanes did the semi</p> <p>18 block -- the overturned semi blocking?</p> <p>19 A. It was blocking both north bound</p> <p>20 lanes, plus half the emergency lane.</p> <p>21 Q. Do you believe that the part of</p> <p>22 the tractor portion of the overturned semi</p> <p>23 was in the emergency lane?</p>
Page 38	Page 40
<p>1 semi?</p> <p>2 A. When we seen it, it was overturned</p> <p>3 with the bottom of it pointed at us.</p> <p>4 Q. Do you recall whether or not any</p> <p>5 lights were on, on the semi that was</p> <p>6 overturned?</p> <p>7 A. There was no lights on that semi</p> <p>8 as I can recall being on.</p> <p>9 Q. Do you recall whether or not it</p> <p>10 had any reflectors that were showing?</p> <p>11 A. There's no reflectors on the</p> <p>12 bottom of a semi.</p> <p>13 Q. Okay. You know, sometimes on the</p> <p>14 side, they might have a three dimensional</p> <p>15 reflector mounted on the side of the</p> <p>16 trailer. And if it's three dimensional, I</p> <p>17 was wondering whether or not you could see</p> <p>18 anything reflecting back like that.</p> <p>19 A. We didn't -- I did not see nothing</p> <p>20 that I can recall thinking back.</p> <p>21 Q. Okay. Do you recall seeing the</p> <p>22 headlights of the semi pointed in any</p> <p>23 direction, the overturned semi?</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Did you ever tell anyone that</p> <p>3 information before?</p> <p>4 A. The state trooper.</p> <p>5 Q. Okay. Do you know if he ever</p> <p>6 recorded that the tractor portion of the</p> <p>7 overturned semi was in the emergency lane?</p> <p>8 A. No. I don't remember if he did or</p> <p>9 not.</p> <p>10 Q. Did you do an affidavit in this</p> <p>11 case?</p> <p>12 A. Affidavit?</p> <p>13 Q. Yes. Did you sign an affidavit in</p> <p>14 this case?</p> <p>15 A. I don't remember.</p> <p>16 Q. Okay. I want to show you this.</p> <p>17 This is your affidavit.</p> <p>18 MR. PENICK: We're going to use</p> <p>19 this affidavit for purposes of his</p> <p>20 examination. But I'm sure, Richard, we</p> <p>21 would like to submit a clean copy. This is</p> <p>22 the only copy I have.</p> <p>23 Q. We'll call it Exhibit 1 to your</p>

10 (Pages 37 to 40)

367 VALLEY AVENUE  
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

## FREEDOM COURT REPORTING

Page 45	Page 47
<p>1 night?</p> <p>2 A. I don't think he was.</p> <p>3 Q. Had you ever seen him wear</p> <p>4 glasses?</p> <p>5 A. Not that I can remember I haven't.</p> <p>6 Q. Do you know whether or not the</p> <p>7 lights were on low beam or high beam?</p> <p>8 A. I can't recall exactly. But I</p> <p>9 think they was on low beam. I can't recall</p> <p>10 exactly.</p> <p>11 Q. Okay. Describe in your own</p> <p>12 narrative form exactly what happened</p> <p>13 immediately prior to the impact. Describe</p> <p>14 the impact and immediately what happened</p> <p>15 after the impact --</p> <p>16 A. We were just going up --</p> <p>17 Q. -- in detail.</p> <p>18 A. We was going I-85 north. Going</p> <p>19 up through there. And all of a sudden,</p> <p>20 there was a semi laid across the road in</p> <p>21 front of us.</p> <p>22 Q. Well, let me ask you this. In</p> <p>23 detail, I thought that you might want to</p>	<p>1 Q. Did you ever go back after this</p> <p>2 accident and look on the ground and see if</p> <p>3 you could see any skid marks?</p> <p>4 A. No, sir, I did not.</p> <p>5 Q. When the brakes locked up, did</p> <p>6 Neal's tractor trailer swerve in any</p> <p>7 direction?</p> <p>8 A. Not that I can remember it</p> <p>9 didn't. Everything happened too fast.</p> <p>10 Q. And when it had the impact with</p> <p>11 Morris' tractor trailer, do you recall</p> <p>12 whether it was in that right outside lane or</p> <p>13 whether it was in the inside lane closest to</p> <p>14 the median?</p> <p>15 A. It was in the right outside lane.</p> <p>16 Q. Have you seen the accident report</p> <p>17 in this case?</p> <p>18 A. No, sir.</p> <p>19 Q. Let me show you what we'll mark as</p> <p>20 Exhibit 2 to your deposition.</p> <p>21 (Whereupon, Plaintiff's Exhibit</p> <p>22 No. 2 was marked for identification.)</p> <p>23 Q. Let me call your attention to page</p>
Page 46	Page 48
<p>1 tell me whether or not you were in the</p> <p>2 inside lane or the outside lane.</p> <p>3 A. We was in the right lane, outside</p> <p>4 lane.</p> <p>5 Q. And what happened?</p> <p>6 A. It would be the inside.</p> <p>7 Q. Well, the one --</p> <p>8 A. It would be the one next to the</p> <p>9 emergency lane.</p> <p>10 Q. So you were on the outside lane?</p> <p>11 A. Going north.</p> <p>12 Q. Okay.</p> <p>13 A. And Neal was going up through</p> <p>14 there. And all of a sudden, there was</p> <p>15 something across the road in front of us.</p> <p>16 We didn't realize what it was until we hit</p> <p>17 it almost.</p> <p>18 Q. All right. Then you said he hit</p> <p>19 his brakes; right?</p> <p>20 A. Yes, sir. He locked up.</p> <p>21 Q. He locked up. Okay. Do you know</p> <p>22 how long he locked up before he hit the --</p> <p>23 A. I have no idea on that now.</p>	<p>1 four of the accident report. Do you see any</p> <p>2 X marking the spot that the trooper has</p> <p>3 described as the point of impact?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And on this particular diagram, is</p> <p>6 that X in the right outside lane or the</p> <p>7 inside lane closest to the median?</p> <p>8 MR. BROUGHTON: And then my only</p> <p>9 objection is that the document speaks for</p> <p>10 itself. And this witness didn't prepare the</p> <p>11 document nor has he seen the document</p> <p>12 before.</p> <p>13 MR. PENICK: That's why I prefaced</p> <p>14 it by saying on this document.</p> <p>15 Q. Does it show whether or not the X</p> <p>16 is on the inside lane or the outside lane?</p> <p>17 A. The X is shown on the outside</p> <p>18 lane.</p> <p>19 Q. Is it on the right lane or the</p> <p>20 inside lane closest to the median?</p> <p>21 A. It's showing on the lane closest</p> <p>22 to the median.</p> <p>23 Q. Would that be the inside lane, the</p>

12 (Pages 45 to 48)

367 VALLEY AVENUE  
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

## FREEDOM COURT REPORTING

Page 49

1 way we've described it so far, the inside  
 2 being the closest to the middle, the median,  
 3 outside being the outside toward the  
 4 emergency lane?  
 5 A. Closest to the median.  
 6 Q. All right. And is that the lane  
 7 that you and Neal were driving in?  
 8 A. No, sir.  
 9 Q. Okay. I believe you said y'all  
 10 were in the outside lane; right?  
 11 A. We was in the right lane going  
 12 north.  
 13 Q. Did the truck ever swerve toward  
 14 the inside lane?  
 15 A. Not that I can remember.  
 16 Q. Is it your -- Well, let me ask  
 17 you. In your opinion, when you had your  
 18 collision, did you collide in the right  
 19 outside lane?  
 20 A. The best I can remember, it was in  
 21 the right outside lane.  
 22 Q. When the collision occurred?  
 23 A. Yes, sir.

Page 50

1 Q. Okay. What did you observe  
 2 immediately after the collision? Well,  
 3 first of all, describe the collision for me,  
 4 the actual collision.  
 5 A. The best I can remember on the  
 6 collision, it just -- it happened so quick.  
 7 Once we got stopped, we jumped out of the  
 8 truck and seen headlights coming at us from  
 9 the north -- from the south.  
 10 Q. Coming up behind you?  
 11 A. Yes, sir, coming up behind us. We  
 12 went running south on the interstate to try  
 13 to get the traffic stopped.  
 14 Q. Were you shaken up?  
 15 A. Yes, sir.  
 16 Q. But you were still oriented, you  
 17 knew which way to go to stop the traffic  
 18 from coming; right?  
 19 A. By the headlights coming up the  
 20 road and everything. So we went running  
 21 south.  
 22 Q. Were the two of you strapped in  
 23 while you were riding?

Page 51

1 A. Yes, sir. Had seat belts on.  
 2 Q. What did you do when you ran  
 3 south?  
 4 A. We kept running south. And a UPS  
 5 truck was coming north.  
 6 Q. Let me ask you a couple of  
 7 questions so I can get my distances  
 8 straightened out. You don't recall how  
 9 close to the point of impact that the brakes  
 10 locked up before the impact, do you?  
 11 A. No, sir.  
 12 Q. And then after the impact, do you  
 13 recall how far from the place of impact that  
 14 you finally stopped?  
 15 A. From the time we impacted until we  
 16 stopped?  
 17 Q. From the time of impact until the  
 18 time you stopped, the distance?  
 19 A. I don't know that.  
 20 Q. All right. You said you got out,  
 21 you ran back. When you ran back, did you  
 22 run back and see where you had had the  
 23 collision or was it just right at the tail

Page 52

1 end of your own trailer?  
 2 A. No, sir, I did not run back to see  
 3 the collision. I was running back south  
 4 because headlights was coming up towards  
 5 us. We had no lights on our truck then. It  
 6 knocked our electrical system out.  
 7 Q. So what did you do?  
 8 A. We run south and kept waving our  
 9 arms up. The guy in the UPS seen us and he  
 10 slammed on brakes.  
 11 Q. But he stopped; right?  
 12 A. Yes, sir.  
 13 Q. Did he stop before the place of  
 14 impact where you all had had the impact?  
 15 A. He did not stop there. He had  
 16 slid between the two trailers.  
 17 Q. Okay. Do you know whether or not  
 18 he left any skid marks?  
 19 A. I don't know.  
 20 Q. But he came to rest between the  
 21 two trailers?  
 22 A. Yes, sir. About in there  
 23 (indicating).

13 (Pages 49 to 52)

367 VALLEY AVENUE  
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 85</p> <p>1 recollection.</p> <p>2 Q. Apparently overcast. No lights</p> <p>3 along the highway. Was this -- As far as</p> <p>4 you could determine, though, on this stretch</p> <p>5 of the highway, was it a straight stretch?</p> <p>6 A. Not at the time.</p> <p>7 Q. I mean, right before the accident,</p> <p>8 was it a straight stretch?</p> <p>9 A. At the time of the accident, no,</p> <p>10 sir, it was not a straight stretch as I can</p> <p>11 remember.</p> <p>12 Q. Was it a curve?</p> <p>13 A. We had -- If I remember correctly,</p> <p>14 we had just come around a curve, a little</p> <p>15 small -- I don't remember exactly.</p> <p>16 Q. Not a deep curve, but just kind of</p> <p>17 a little winding curve?</p> <p>18 A. Just a little bit.</p> <p>19 Q. And how long had you been out of</p> <p>20 that curve before the impact?</p> <p>21 A. I don't remember.</p> <p>22 Q. Okay. But you don't recall the</p> <p>23 impact being in a curve, though?</p>	<p style="text-align: right;">Page 87</p> <p>1 him. I'm just asking a question. On this</p> <p>2 diagram, it shows it's fairly straight;</p> <p>3 right? Would you agree?</p> <p>4 A. The diagram shows it fairly</p> <p>5 straight.</p> <p>6 Q. And your recollection of the road</p> <p>7 itself at the time of the accident, was it</p> <p>8 relatively straight?</p> <p>9 A. I can't remember exactly.</p> <p>10 Q. Okay. But you don't claim that</p> <p>11 the -- that Morris' overturned tractor was</p> <p>12 in a curve that you just couldn't see</p> <p>13 around? You don't claim that, do you?</p> <p>14 A. No, sir.</p> <p>15 Q. Okay. Then you said all of a</p> <p>16 sudden, I saw what appeared to be the bottom</p> <p>17 an overturned truck lying across both lanes;</p> <p>18 is that right?</p> <p>19 A. Yes.</p> <p>20 Q. To your knowledge of the cab, of a</p> <p>21 Kenworth or trucks generally, how long would</p> <p>22 you say a cab is -- well, the tractor part</p> <p>23 of the --</p>
<p style="text-align: right;">Page 86</p> <p>1 A. Not that I remember, it wasn't.</p> <p>2 Q. Now, looking at Plaintiff's</p> <p>3 Exhibit 2, Trooper Huntley drew this</p> <p>4 diagram. He essentially drew the road at</p> <p>5 that location fairly straight. Is that</p> <p>6 about your recollection, too?</p> <p>7 MR. BROUGHTON: Object to the form</p> <p>8 as to what Trooper Huntley did or didn't</p> <p>9 do. I'll agree with you. This document</p> <p>10 speaks for itself, Henry.</p> <p>11 But I can't tell you that Trooper</p> <p>12 Huntley -- what Trooper Huntley drew or</p> <p>13 didn't draw on that drawing and where that</p> <p>14 road is -- That almost looks like it's a</p> <p>15 standardized kind of a thing. I don't know.</p> <p>16 We don't know.</p> <p>17 MR. PENICK: All right.</p> <p>18 MR. BROUGHTON: Unless Mr. Tidwell</p> <p>19 testifies that he knows or saw Huntley</p> <p>20 drawing on that thing, I can't --</p> <p>21 A. I can't swear either way on that.</p> <p>22 I didn't see nobody draw.</p> <p>23 Q. I'm not asking you to vouch for</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I can't say because they all vary.</p> <p>2 Q. Any general length?</p> <p>3 A. I don't really know exactly.</p> <p>4 Q. Okay. All right. And you said</p> <p>5 that about the time you recollect the truck</p> <p>6 or recognized the truck overturned, you said</p> <p>7 almost immediately Neal popped up his</p> <p>8 brakes. I noticed you used the word almost</p> <p>9 immediately. Was there a little delay time</p> <p>10 there?</p> <p>11 A. Not that I can remember, there</p> <p>12 wasn't. It all happened too fast.</p> <p>13 Q. Then you said that he had no time</p> <p>14 to react to avoid the collision. Do you</p> <p>15 recall when you were in truck driving school</p> <p>16 that they taught you all accident avoidance</p> <p>17 maneuvers?</p> <p>18 A. I don't remember it exactly being</p> <p>19 that way.</p> <p>20 Q. Do you know whether or not Neal</p> <p>21 did any kind of accident avoidance maneuver?</p> <p>22 A. Not that I can remember. Like I</p> <p>23 said, there wasn't no time.</p>

22 (Pages 85 to 88)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**



<p style="text-align: right;">Page 89</p> <p>1 Q. And then the next thing that you 2 said, at the time, we hit the brakes. Now, 3 we didn't hit the brakes, did we, or was it 4 just Neal that hit the brakes? 5 A. It was just Neal that hit the 6 brakes. 7 Q. Then you said immediately by the 8 time you hit the brakes, you all were 9 traveling about sixty-five, seventy miles an 10 hour; right? 11 A. The best I remember. 12 Q. Do you have any idea how fast you 13 were traveling at the time of impact? 14 A. I don't know. 15 Q. Do you know whether or not the 16 vehicle slowed significantly before the 17 impact? 18 A. All of a sudden, there was a 19 truck. I don't remember -- All I remember 20 is just hitting the brakes. 21 Q. You don't recall the skidding or 22 anything, do you? 23 MR. BROUGHTON: I'm sorry, what</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Now, then you go into the next 2 paragraph and you talk about there being no 3 headlights, taillights, running lights, 4 reflective lights or reflective tape visible 5 to you as you and Neal approached the 6 overturned vehicle; right? 7 A. The best I remember, there was 8 nothing we could see there. 9 Q. Okay. Being that it was very 10 dark, did you see any headlights from 11 Morris' truck whatsoever? 12 A. The best I can remember, there was 13 no headlights from Morris' truck. 14 Q. Do you recall any red lights, 15 signal lights, brake lights, anything? 16 A. Not that I can recall. 17 Q. Now, when you're sitting up in 18 that Peterbilt, how high would you say 19 you're off the ground? 20 A. I don't know exactly. 21 Q. Would it be say, ten feet, twelve 22 feet, fourteen feet? 23 A. It would be less than that.</p>
<p style="text-align: right;">Page 90</p> <p>1 was that question? 2 MR. PENICK: I asked him did he 3 recall skidding or anything like that. 4 A. Talking about hearing the brakes 5 lock up? 6 Q. Yes. 7 A. It was all too fast, too quick. 8 Q. Okay. So you don't recall hearing 9 the brakes locking up? 10 A. Not that I can remember. 11 Everything was too quick. 12 Q. Then you said as soon as the truck 13 stopped, you both jumped out and were 14 running south because the collision had 15 knocked out your electrical system. 16 You saw some headlights and 17 flagged down the truck before it hit your 18 trailer. I think the next paragraph you 19 just talk about the truck was lying down and 20 you had no idea that Morris' tractor trailer 21 was overturned on the highway; right? 22 A. Correct. I had no idea he was 23 overturned.</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. It would be less than which one? 2 A. Probably around -- somewhere 3 around five or six feet in the air. 4 Q. Do you have something that you 5 climb up on when you're getting into the 6 seat? 7 A. You've got steps that you climb up 8 on to get in the truck. 9 Q. So when you consider all of that, 10 from the ground up to that seat, how high 11 would you say you're sitting up? 12 A. About five or six feet. 13 Q. All right. And from your vantage 14 point, you're saying you couldn't see any 15 reflective tape or anything like that? 16 A. Not that I could see. 17 Q. You saw no reflectors at all? 18 A. Not that I can remember. 19 Q. Could you see any reflection from 20 the vehicle at all? 21 A. Not that I remember. 22 Q. Then you say that you were unable 23 to see the tractor trailer rig until our</p>

23 (Pages 89 to 92)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

**FREEDOM COURT REPORTING**

<p style="text-align: right;">Page 93</p> <p>1 headlights hit it.</p> <p>2 Do you recall what part of the</p> <p>3 underside of the carriage illuminated to you</p> <p>4 -- was illuminated to you by the</p> <p>5 headlights?</p> <p>6 A. I don't remember exactly what it</p> <p>7 was.</p> <p>8 Q. When you got back to --</p> <p>9 MR. BROUGHTON: Are you at a break</p> <p>10 point?</p> <p>11 MR. PENICK: Yes. Sure.</p> <p>12 MR. BROUGHTON: I'm just saying</p> <p>13 we've been going for over an hour. Let's</p> <p>14 take a little short break.</p> <p>15 MR. PENICK: Okay. I think we can</p> <p>16 wrap up with him in about twenty minutes</p> <p>17 after we take the break.</p> <p>18 MR. BROUGHTON: Okay.</p> <p>19 (Whereupon, a short recess was</p> <p>20 taken.)</p> <p>21 Q. Back on the record. When you got</p> <p>22 back to Florida Transformers after this</p> <p>23 accident, did you ever complete a driver's</p>	<p style="text-align: right;">Page 95</p> <p>1 A. What do you mean?</p> <p>2 MR. BROUGHTON: He just wants you</p> <p>3 to identify it.</p> <p>4 Q. Can you tell me what that is?</p> <p>5 A. It's the driving road test.</p> <p>6 Q. Is this the road test that you</p> <p>7 gave to Neal?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And you said you completed this on</p> <p>10 the 7th?</p> <p>11 A. Right.</p> <p>12 Q. Do you know what day it's dated,</p> <p>13 this document?</p> <p>14 A. It was dated on the 2nd.</p> <p>15 Q. Did you sign it on the 2nd or the</p> <p>16 7th?</p> <p>17 A. I signed it on the 7th if I</p> <p>18 remember correctly.</p> <p>19 Q. But you were rating him on the</p> <p>20 road test that you had on the 2nd; is that</p> <p>21 correct?</p> <p>22 A. We was going to start out on the</p> <p>23 2nd. But I never did finish it.</p>
<p style="text-align: right;">Page 94</p> <p>1 evaluation of Neal?</p> <p>2 A. If I remember correctly, I</p> <p>3 completed it on the 7th.</p> <p>4 Q. Okay. And do you recall how you</p> <p>5 rated him?</p> <p>6 A. If I remember correctly, I think I</p> <p>7 rated him good.</p> <p>8 Q. Well, let me ask you this. Did</p> <p>9 the rating require you to rate him for both</p> <p>10 night and daytime driving?</p> <p>11 A. Not that I can remember, it</p> <p>12 don't. There's -- If I remember, there is a</p> <p>13 section for day and night. But I don't</p> <p>14 remember which one I --</p> <p>15 Q. Did you rate him for both day and</p> <p>16 night?</p> <p>17 A. I don't remember.</p> <p>18 Q. Let me show you what we'll mark as</p> <p>19 Plaintiff's Exhibit 3 to your deposition.</p> <p>20 (Whereupon, Plaintiff's Exhibit</p> <p>21 No. 3 was marked for identification.)</p> <p>22 Q. Can you tell me what's marked as</p> <p>23 Plaintiff's Exhibit 3?</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Well, does it start out on the 1st</p> <p>2 or the 2nd?</p> <p>3 A. The pre-trip inspection was on the</p> <p>4 1st.</p> <p>5 Q. Okay.</p> <p>6 A. I don't remember exactly.</p> <p>7 Q. Well, let me put it this way</p> <p>8 then. After you all got back, after the</p> <p>9 accident, you didn't do any other driving on</p> <p>10 the 2nd, did you?</p> <p>11 A. No, sir.</p> <p>12 Q. So all of the driving that you</p> <p>13 would have been grading on the 2nd would</p> <p>14 have been before the accident; right?</p> <p>15 A. Correct.</p> <p>16 Q. And would you agree with me that</p> <p>17 all of the driving that he did on the 2nd</p> <p>18 was night time driving?</p> <p>19 A. Correct.</p> <p>20 Q. And would you agree with me that</p> <p>21 none of the driving he did on the 2nd was</p> <p>22 daytime driving?</p> <p>23 A. Correct.</p>

24 (Pages 93 to 96)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

## FREEDOM COURT REPORTING

Page 97	Page 99
<p>1 Q. But you do see that the driving</p> <p>2 test is divided into day and night test;</p> <p>3 right?</p> <p>4 A. Right.</p> <p>5 Q. And you did grade him on the night</p> <p>6 test; right?</p> <p>7 A. Correct.</p> <p>8 Q. Did you rate him on the day test?</p> <p>9 A. Yes.</p> <p>10 Q. Did he drive during the day?</p> <p>11 A. Not on the 2nd.</p> <p>12 Q. Any time?</p> <p>13 A. On the 7th.</p> <p>14 Q. Okay. But not on the 2nd. But</p> <p>15 does the form indicate, Plaintiff's Exhibit</p> <p>16 No. 3 indicate that he -- according to this,</p> <p>17 that he did his driving test on the 2nd?</p> <p>18 A. It indicates that he did his</p> <p>19 driving on the 7th.</p> <p>20 Q. So this would be incorrect then?</p> <p>21 A. Correct. I forgot to change the</p> <p>22 date on it.</p> <p>23 Q. Well, I see the 2nd appears in</p>	<p>1 Q. Did you fill this form out before</p> <p>2 the 7th?</p> <p>3 A. I had started filling the form out</p> <p>4 on the 2nd.</p> <p>5 Q. Do you know how much of it you had</p> <p>6 filled out on the 2nd?</p> <p>7 A. Not exactly. I don't remember</p> <p>8 exactly what I filled out on the 2nd. I</p> <p>9 don't remember.</p> <p>10 Q. But you certified him as of the</p> <p>11 2nd; correct?</p> <p>12 A. Yes. Correct.</p> <p>13 Q. He was not certified by the time</p> <p>14 he was driving on the -- at the time of the</p> <p>15 accident; right?</p> <p>16 A. No, sir.</p> <p>17 Q. I noticed that all of the boxes</p> <p>18 are filled except for two. And that says</p> <p>19 something about intersection scanning and</p> <p>20 neither the day nor night test in the upper</p> <p>21 right-hand corner. Any reason why that's</p> <p>22 not checked?</p> <p>23 A. Not that I can remember there is,</p>
Page 98	Page 100
<p>1 several places for -- if you look on the</p> <p>2 left-hand column, you see the 2nd for the</p> <p>3 day test. If you look to the time right of</p> <p>4 the page, do you also see the 2nd on the day</p> <p>5 test?</p> <p>6 A. Correct.</p> <p>7 Q. And then when you see that the</p> <p>8 final certificate is signed or the driver's</p> <p>9 road test is signed, it's signed, according</p> <p>10 to this, on the 2nd, also, isn't it?</p> <p>11 A. Correct.</p> <p>12 Q. So he didn't do these tests on the</p> <p>13 2nd, this day test then; correct?</p> <p>14 A. No, sir.</p> <p>15 Q. And you signed, however, did you</p> <p>16 not, that he passed this test on the 2nd;</p> <p>17 correct?</p> <p>18 A. I forgot to change the date to the</p> <p>19 7th.</p> <p>20 Q. Do you recall when -- okay. Well,</p> <p>21 when you signed it on the 7th, did you go</p> <p>22 back and back date it to the 2nd?</p> <p>23 A. I don't remember exactly.</p>	<p>1 no.</p> <p>2 Q. Now, what you were grading him on</p> <p>3 is the trip that you had at the time of the</p> <p>4 accident; right?</p> <p>5 A. I was supposed to be at the time</p> <p>6 of the accident.</p> <p>7 Q. So at the time of the accident, he</p> <p>8 was not -- you had not given him a</p> <p>9 certificate of road test, had you?</p> <p>10 A. Not at the time of the accident.</p> <p>11 Q. But at some time after the</p> <p>12 accident, you concluded that Neal was a very</p> <p>13 good driver. Is that what you said on your</p> <p>14 comment section?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Are you aware of any infractions</p> <p>17 he had that year?</p> <p>18 A. Relating to what?</p> <p>19 Q. For example, on this sheet, all of</p> <p>20 these E's, what do they stand for? You have</p> <p>21 E for each box.</p> <p>22 A. I don't remember.</p> <p>23 Q. You don't know what the E's stand</p>

25 (Pages 97 to 100)

367 VALLEY AVENUE  
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 101</p> <p>1 for?</p> <p>2 A. Not right now.</p> <p>3 Q. But you put the E on here?</p> <p>4 A. The top thing. E is for</p> <p>5 excellent, good, fair, poor.</p> <p>6 Q. And so you put the E on here?</p> <p>7 A. Correct.</p> <p>8 Q. And do you consider that all of</p> <p>9 what he did was excellent?</p> <p>10 A. On the day that I evaluated him,</p> <p>11 yes.</p> <p>12 Q. Did you put him through all of</p> <p>13 these different tests?</p> <p>14 A. As I remember, he went through</p> <p>15 everyone of these tests.</p> <p>16 Q. And you put him through each of</p> <p>17 these; right?</p> <p>18 A. The best I remember, I did. We</p> <p>19 went through them.</p> <p>20 Q. Do either you or he have any</p> <p>21 record that you all made a pre-trip</p> <p>22 inspection?</p> <p>23 A. If I remember correctly, it should</p>	<p style="text-align: right;">Page 103</p> <p>1 as is indicated, Neal Thompson had not</p> <p>2 driven five hundred miles as indicated on</p> <p>3 this document?</p> <p>4 A. He had driven five hundred miles</p> <p>5 on the 7th.</p> <p>6 Q. But he hadn't driven the five</p> <p>7 hundred miles --</p> <p>8 A. I had not changed the date.</p> <p>9 Q. -- at the time that you gave him</p> <p>10 the road test on the 2nd?</p> <p>11 A. We were starting the road test on</p> <p>12 the 2nd.</p> <p>13 Q. When you started the road test on</p> <p>14 the 2nd, he had not driven five hundred</p> <p>15 miles by the end of the day on the 2nd?</p> <p>16 A. Correct.</p> <p>17 Q. And he had not done any day</p> <p>18 driving by the end of the day on the 2nd;</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. Were you required to give him this</p> <p>22 certificate of road test before he was</p> <p>23 allowed to drive on his own?</p>
<p style="text-align: right;">Page 102</p> <p>1 be on our logbook.</p> <p>2 Q. Would it be on your duty status</p> <p>3 sheet?</p> <p>4 A. It should be on the logbook sheet.</p> <p>5 Q. Now, you said that this test</p> <p>6 consisted of about five hundred miles. Do</p> <p>7 you know how many miles you all -- Well,</p> <p>8 first of all, does it say that?</p> <p>9 A. Yes, it says that.</p> <p>10 Q. Okay. Do you know how many miles</p> <p>11 you had driven on the 2nd?</p> <p>12 A. I don't know exactly how many</p> <p>13 miles we had driven on the 2nd.</p> <p>14 Q. How many miles would you say it is</p> <p>15 from DeFuniak Springs to the Shorter exit</p> <p>16 where you had the accident?</p> <p>17 A. I don't know exactly how many.</p> <p>18 Just guessing, I don't know, a hundred and</p> <p>19 twenty, a hundred and thirty miles.</p> <p>20 Q. But it's not five hundred miles,</p> <p>21 is it?</p> <p>22 A. No.</p> <p>23 Q. So if this was signed on the 2nd</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Not that I remember, I'm not.</p> <p>2 Q. Do you know whenever he was given</p> <p>3 a truck on his own?</p> <p>4 A. You talking about with the</p> <p>5 company?</p> <p>6 Q. Yes.</p> <p>7 A. I don't know exactly what date it</p> <p>8 was, no, sir.</p> <p>9 Q. Do you recall the mileage on the</p> <p>10 truck the day that you all took off?</p> <p>11 A. Not that I can remember, no.</p> <p>12 Q. Let me show you a document. Did</p> <p>13 you also make a notation of the mileage on</p> <p>14 the truck before you took off?</p> <p>15 A. No, I did not.</p> <p>16 Q. Had you ever driven truck 11</p> <p>17 before?</p> <p>18 A. I had driven truck 11 before.</p> <p>19 Q. Do you know when it last had its</p> <p>20 brakes serviced?</p> <p>21 A. I don't know when it last had its</p> <p>22 brakes serviced.</p> <p>23 Q. Do you recall any problems with</p>

26 (Pages 101 to 104)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**



